IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5353 OF 2007

Dinkar Chandrakant Kalekar & Ors..... ....Petitioners.
V/s
Bhagwan Dhawaji Khandare & Ors..... ....Respondents.

Mr.U.B.Nighot, Adv. For the petitioners.

Mr.P.S.Dani, Adv. For respondent Nos. 1 to 5 & 7.

CORAM: A.P. DESHPANDE, J.
24.7.2007

PC:

Rule. Rule made returnable forthwith. Taken up for final hearing by consent of parties.

The petitioner No.1 is the Secretary of petitioner No.3-Society which in turn is member of Pune District Central Cooperative Bank which is a federal society. The respondent Nos. 1 to 7 instituted a dispute before the Cooperative Court seeking declaration that the meeting held on 18.5.07 is illegal and the business transacted therein as well is illegal. In the dispute an application was moved seeking stay of implementation of resolution dated 18.5.07 under which the present petitioner No.2 came to be elected as representative/delegate of petitioner No.3 on the federal society. The trial Court rejected the application. Aggrieved thereby an appeal against the order was preferred before the Maharashtra State Cooperative Appellate Court Mumbai Bench, Pune. The appeal is admittedly filed on 12.7.07. Along with the appeal an application for stay was also moved. The Cooperative Appellate Court directed notice to be issued and made the same returnable on the next

day i.e. 13.7.07 and on 13.7.07 an order came to be passed which is impugned in this petition. By the impugned order pending hearing of the appeal the implementation of resolution passed in meeting dated 18.5.07 has been stayed.

2. The present petitioners have challenged the order dated 13.7.07 passed by the Cooperative Appellate Court mainly on the ground that the said order has been passed in breach of principles of natural justice in as much as the petitioners were denied reasonable opportunity of being heard in the matter. It is submitted that only petitioner No.1 was served with the notice late at night but he could not attend the hear5ing on the very next day on account of heavy rains in the region. The petitioner No.2 was not served with the notice who is the person elected as representative of petitioner No.3-Society in the meeting held on 18.5.07. Thus the order impugned to the extent it relates to petitioner No.2 it is obvious that the same has been passed without hearing him. I do not find that there was any pressing urgency to pass the impugned order on the very next day. I am informed that at present name of the representative of petitioner No.3-Society has not been included in the final list of voters which has been prepared by the Collector. It is undisputed that the Collector can include the name of representative of the petitioner-society even at the later point of time. In the absence of pressing urgency the impugned order dated 13.7.07 cannot at all be justified. Without touching merit of the matter which is subjudise before the Cooperative Appellate Court I deem it appropriate to quash and set aside the order same having been passed in violation of principles of natural justice which goes to affect the civil rights of the petitioner No.2. Both learned counsel for respective parties state that the appeal has been fixed for hearing on 30.7.07. All the concerned parties through their respective advocates assure this Court that parties will cooperative the

Maharashtra State Cooperative Appellate Court in dispose of appeal on 30.7.07 itself without seeking any adjournment. Without expressing any op0inion on merit of the matter writ petition is allowed and the impugned order passed by the Maharashtra State Cooperative Court dated 13.7.07 in Appeal from Order No.117/07 is quashed and set aside.

3. It is made clear that on the basis of this order passed by this Court the name of the petitioner No.2 shall not be included in the final list of voters by the Collector. The Collector shall include the name of the representative of petitioner No.3-Society in the final voters' list after the Cooperative Appellate Court passes an order in appeal which is scheduled to be heard on 30.7.07. Rule made absolute in above terms with no order as to costs.

24.7.07.